

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20580

In the Matter of)	
)	
Rules and Regulations Implementing the)	CG Docket No. 02-278
Telephone Consumer Protection Act of 1991)	

**YP.NET COMMENTS IN SUPPORT
OF PETITIONS FOR RECONSIDERATION**

YP.Net is America's Local Yellow Pages TM on the Internet, providing Internet-based directory services that include both Yellow Pages listings and White Pages listings. YP.Net is currently providing approximately 100 million page-views of distribution per month for the benefit of its advertisers across the nation. YP.Net is a publicly traded company (Symbol: YPNT) and is a component of the Dow Jones Internet Services Index. YP.Net is very concerned about the Commission's changes in its rules regarding unsolicited facsimile advertisements (the "do-not-fax rules") and their effect on the way YP.Net conducts business. It believes that these changes will have a negative affect on its advertisers and users across the nation.

The Commission's new do-not-fax rules will have a seriously detrimental impact on YP.Net. The YP.Net directory contains approximately 18 million business listings, including approximately 300,000 listings of businesses with enhanced, priority content and/or placement. YP.Net strives to have complete and accurate listings displayed, according to each business's wishes and desires. Without complete and accurate listings, people will not use the YP.Net or other Internet Yellow Page sites when trying to locate a business. Or, they may receive wrong or outdated information, and may not be able to locate the product or service they desire. This may ultimately have an adverse effect on the economy.

YP.Net uses faxes to confirm that business listings are accurate and conform to each business's desires regarding content, placement and enhancements. The company will send a business a fax informing it of what information is being displayed, how such information is being displayed and under what category heading the information is listed in the YP.Net Internet Yellow Page Directory. YP.Net sends this to ensure the accuracy of the listing, to assure that such information is displayed according to the business's wishes, as well as to give the business an opportunity to review, make necessary corrections and modifications, or otherwise change their listing's content or features.

Under the Commission's changes to its rules, YP.Net would be required to obtain written permission from each and every one of the approximately 18 million businesses contained in the YP.Net Internet Yellow Page Directory prior to sending the above-described fax.¹ The Commission clearly underestimates the gargantuan nature of this task. Obtaining these signatures by means of the U.S. Mail, a website, or face-to-face interaction, as the Commission suggests, is just not feasible. YP.Net-listed businesses are used to dealing with the company by fax. A YP.Net-listed business gets the company's fax, looks it over to make sure the information content, placement, features and enhancements are according to their wishes, and then either sends it back with corrections or changes or does nothing with it, resulting in the listing remaining as is. It seems to work for the business and for YP.Net. Now, the Commission is asking that YP.Net interpose another step in that communication – a step that is wholly unnecessary and burdensome.

¹ YP.Net contends that it has an existing business relationship with each business listed in its directory, both under the old definition of established business relationship contained in 47 C.F.R. 1200(f)(4) and the new definition of established business relationship adopted in this proceeding.

YP.Net urges the Commission to retain the existing business relationship exemption for unsolicited facsimile advertisements or to make a provision for YP.Net to send faxes. YP.Net supports the many Petitions for Reconsideration asking for this measure.²

YP.Net also urges the Commission to declare that certain fax transmissions are not considered unsolicited facsimile advertisements for the purposes of the Commission's rules.³ These would include faxes that contain information about a particular party's listing information or account, and may also contain information advertising the commercial availability of goods or services. For YP.Net and its listed businesses, this is a crucial issue. If YP.Net is forced to separate the functions of confirming the business listings information, and informing each business of its options regarding the placement, features and enhancements of this very same listing, it will significantly increase YP.Net's cost of doing business. Customers would receive two separate documents from YP.Net, instead of one. That not only increases the cost to both YP.Net and the listed business, it also creates unnecessary confusion. Most of YP.Net's listed businesses are small businesses. Their listing on YP.Net represents one of the very few low-cost advertising opportunities available to small businesses. The Commission's new rules make this avenue more difficult and expensive for all involved.

As noted in many Petitions for Reconsideration, these customer-specific faxes are present in many business-to-business transactions. To suddenly associate them with the perpetrators of random blast faxes advertising office supplies, real estate, and cheaper long distance does a

² See Petitions for Reconsideration of the United States Small Business Administration Office of Advocacy, the United States Chamber of Commerce, et al., the Yellow Pages Integrated Media Association, the Newspaper Association of America, etc.

³ Several Petitions for Reconsideration raise this issue, including the petitions of the United States Small Business Administration Office of Advocacy, the Yellow Pages Integrated Media Association, the Financial Services Coalition, Proximity Marketing, et. al.

disservice to every business that uses the fax machine for legitimate communications with their customers.

The do-not-fax rules are there to eliminate, to the extent possible, unwanted junk faxes sent randomly to businesses where there is no existing relationship between the sender and receiver. These are the types of faxes to which businesses object. The rules are *not* there to hinder legitimate business communications. Businesses generally do not object to a fax from YP.Net asking them to confirm their listing information, make any necessary changes, and, if they wish, to avail themselves of any optional listing enhancements or features. If they do not wish to remain in the YP.Net directory, or do not wish to receive a fax confirmation from YP.Net, the company will gladly honor those requests. The Commission's rules, however, throw out the baby with the bath water.

YP.Net respectfully requests that the Commission grant the plethora of Petitions for Reconsideration asking the Commission to reinstate the existing business relationship exemption in its unsolicited facsimile advertisement rules, and define an unsolicited facsimile advertisement in a way that exempts communications containing information regarding a businesses listing or account information.

Respectfully submitted,

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Certificate of Service

I, Joel Bernstein, an attorney with the Halprin Temple, certify that I have, on this October 14, 2003, caused to be mailed, first-class, postage prepaid, a copy of the foregoing comments on Petitions for Reconsideration to the following:

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